UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 16-20576
Hon. STEPHEN J. MURPHY

vs.

RANDY NIBUNGCO MONANTE,

Defendant.
_____________________________________________/

MARGARET M. SMITH
United States Attorney's Office
211 W. Fort Street; Suite 2001
Detroit, MI 48226
313-226-9135
Email: margaret.smith@usdoj.gov

SANFORD A. SCHULMAN P-43230
Attorney for Defendant:
RANDY NIBUNGCO MONANTE
500 Griswold Street, Suite 2340
Detroit, Michigan 48226
(313) 963-4740
saschulman@comcast.net
_____________________________________________/

**DEFENDANT, RANDY NIBUNGCO MONTANTE'S**
**RENEWED MOTION TO TRANSFER TO MILAN DETENTION CENTER**
**PENDING SENTENCING**

NOW COMES the Defendant, RANDY NIBUNGCO MONANTE, by and through his attorney, SANFORD A. SCHULMAN and respectfully requests this Honorable Court enter grant the defendant, RANDY NIBUNGCO MONTANTE's Motion Renewed Motion to Transfer to Milan Detention Center Pending Sentencing for the following reason.

1. On August 23, 2016 a four-count indictment was returned charging the defendant with count one: Production of Pornography in violation of 18 USC Sec. 2251(a);(e); count two: Coercion and Enticement of a Minor in violation of 18 USC Sec. 2422(b); count three: Receipt of Child Pornography in violation of 18 USC Sec. 2252A(a)(2); and count four: Possession of Child Pornography in violation of 18 USC Sec. 2252(a)(5)(B).

2. On February 1, 2017, Mr. Montante pled guilty pursuant to a Rule 11 Plea Agreement to one count in the Indictment, Production of Child Pornography.

3. Mr. Montante has no prior criminal history and has never been arrested prior to August, 2016. He has been detained and without bond in the Sanilac County Jail, Sandusky, Michigan for seven months.

4. That the drive from his family's house to visit and back requires 4 hours of driving. The drive is too difficult for some family members and he is not permitted any contact visits as part of the jail policy.

5. It has been extremely difficult for Randy to communicate with his family, to discuss the plea agreement and to prepare for sentencing.

6. The defense is aware of the US Supreme Court case Block v. Rutherford, 468 U.S. 576, 104 S. Ct. 3227, 82 L. Ed. 2d 438 (1984), the Supreme Court of the United States held that district courts must defer to jailers' policies regarding contact visits, however, where moving the defendant would assist the defense in preparing for sentencing and better communication with his family, this court can issue a strong recommendation for transfer.

WHEREFORE, Defendant, RANDY NIBUNGCO MONANTE, respectfully requests that this Court enter grant the defendant, RANDY NIBUNGCO MONTANTE's Motion Renewed Motion to Transfer to Milan Detention Center Pending Sentencing for the reasons so stated herein.

Respectfully submitted,

s/Sanford A. Schulman
SANFORD A. SCHULMAN P-43230
Attorney for Defendant:
RANDY NIBUNGCO MONANTE
500 Griswold Street, Suite 2340
Detroit, Michigan 48226
(313) 963-4740
saschulman@comcast.net

Date: March 1, 2017

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 16-20576
Hon. STEPHEN J. MURPHY

vs.

RANDY NIBUNGCO MONANTE,

Defendant.
_______________________________________/

MARGARET M. SMITH
United States Attorney's Office
211 W. Fort Street; Suite 2001
Detroit, MI 48226
313-226-9135
Email: margaret.smith@usdoj.gov

SANFORD A. SCHULMAN P-43230
Attorney for Defendant:
RANDY NIBUNGCO MONANTE
500 Griswold Street, Suite 2340
Detroit, Michigan 48226
(313) 963-4740
saschulman@comcast.net
_______________________________________/

**BRIEF IN SUPPORT OF DEFENDANT, RANDY NIBUNGCO MONTANTE'S RENEWED MOTION TO TRANSFER TO MILAN DETENTION CENTER PENDING SENTENCING**

NOW COMES the Defendant, RANDY NIBUNGCO MONANTE, by and through his attorney, SANFORD A. SCHULMAN and respectfully requests this Honorable Court enter grant the defendant, RANDY NIBUNGCO MONTANTE's Motion Renewed Motion to Transfer to Milan Detention Center Pending Sentencing for the following reasons:

STATEMENT OF FACTS

On August 23, 2016 a four-count indictment was returned charging the defendant with count one: Production of Pornography in violation of 18 USC Sec. 2251(a);(e); count two: Coercion and Enticement of a Minor in violation of 18 USC Sec. 2422(b); count three: Receipt of Child Pornography in violation of 18 USC Sec. 2252A(a)(2); and count four: Possession of Child Pornography in violation of 18 USC Sec. 2252(a)(5)(B). Between August, 2016 and the February, 2017 plea, the defendant had no very little contact with his family and no contact visits with anyone but his attorney.

Randy has been essentially isolated from his family and friends. He is in a single jail cell with upwards of 8 other inmates. He has been growing increasingly depressed and it has been difficult for counsel to communicate with him.

Mr. Montante filed only one motion for bond and otherwise has fully accepted responsibility. This Court will be asked to decide if 15 years is a sufficient sentence. To assist this Court, the defense is in the process of preparing a sentencing memorandum. However, to effectively prepared the report it would be of significant assistance if Randy was moved to Milan for the few weeks prior to sentencing He will be able to communicate more effectively with his attorney, meet and discuss sentencing with his family and his family will be more likely to make the trip to see him.

Mr. Montante has no prior criminal history and has never been arrested prior to August, 2016. He has been detained and without bond in the Sanilac County Jail, Sandusky, Michigan for seven months. The drive from his family's house to visit and back requires 4 hours of driving. The drive is too difficult for some family members and he is not permitted any contact visits as part of the jail policy.

## ARGUMENT

There is no authority that would allow this Court to order the Marshals to move Mr. Montante to any jail. However, when there is a separation order, this Court can order the defendant moved. When there are security concerns, this Court can order the defendant moved. The US Supreme Court, however, in Block v. Rutherford, 468 U.S. 576, 104 S. Ct. 3227, 82 L. Ed. 2d 438 (1984), held that district courts must defer to jailers' policies regarding contact visits. Where moving the defendant would assist the defense in preparing for sentencing and better communication with his family, this court can issue a strong recommendation for transfer.

WHEREFORE, Defendant, RANDY NIBUNGCO MONANTE, respectfully requests that this Court enter grant the defendant, RANDY NIBUNGCO MONTANTE's Motion Renewed Motion to Transfer to Milan Detention Center Pending Sentencing for the reasons so stated herein.

Respectfully submitted,

s/Sanford A. Schulman
SANFORD A. SCHULMAN P-43230
Attorney for Defendant:
RANDY NIBUNGCO MONANTE
500 Griswold Street, Suite 2340
Detroit, Michigan 48226
(313) 963-4740
saschulman@comcast.net

Date: March 1, 2017